

Article 2: Administrative Code

Division 36: Bidding and Award Requirements for Minor Public Works Contracts (*“Bidding and Award Requirements for Minor Public Works Contracts” added 9-3-2002 by O-19095 N.S.*)

§22.3601 Purpose

The City Council wants to create programs intended to increase outreach to and use of historically underutilized construction contractors. The City Council intends to create a minor construction program to fulfill that purpose and to assist these contractors. This division is, therefore, intended to provide different advertisement, bidding, award, and contract administration policies and procedures for *minor public works contracts* as distinguished from *major public works contracts*, while continuing to ensure that the City’s contracting procedures are fair and that competitive pricing is considered.
(*“Purpose” added 9-3-2002 by O-19095 N.S.*)

§22.3602 Applicability

This division is to apply when the City seeks contractors to perform *minor public works contracts*, except that it does not apply to *minor public works contracts* when the work to be performed consists primarily of acquisition of equipment or fabricated parts where the onsite labor required to install the equipment or parts amounts to less than 25% of the total value of the *contract* as determined at the time of bid opening.
(*“Applicability added 9-3-2002 by O-19095 N.S.”*)

§22.3603 Definitions

Defined terms used in this division appear in italics. For purposes of this division:

Emerging business means a business whose gross income does not exceed the amount specified in the Emerging Business Size Standards Caps for each type of business listed on the document on file in the City Clerk’s Office as Document No. OO-19095-1, as it is amended from time to time.

Small business means a business whose gross income does not exceed the amount specified in the Small Business Size Standards Caps for each type of business listed on the document on file in the City Clerk’s Office as Document No. OO-19095-1, as

it is amended from time to time.
(“Definitions” added 9-3-2002 by O-19095 N.S.)

§ 22.3604 Determination of Value of a Public Works Contract

- (a) The value of a contract shall be determined at bid opening. For purposes of determining the value of a *contract* at the time of bid opening, only the proposed costs of construction, not design costs or the City’s contract administration costs, are to be considered.
- (b) The City Manager must tentatively determine a proposed contract’s value prior to commencing contractor selection so that proper procedures may be used for advertising, bidding, and award.
- (c) The fact that one or more bids are received that exceed the \$250,000 limit for using the minor construction bidding and award procedures does not render the procedures invalid or the award of a contract invalid. However, if *minor public works contract* procedures were used for bidding and the Manager finds that acceptance of the lowest responsible bidder on a particular *public works contract* would make the value of the executed *contract*, excluding design and City administration costs, exceed the \$250,000 limit for use of those procedures, the Manager must reject the bids and commence advertising and bidding procedures for *major public works contracts*.
(“Determination of Value of a Public Works Contract” added 9-3-2002 by O-19095 N.S.)

§22.3605 Establishment of Minor Public Works Contract Availability Lists

- (a) The City Manager shall establish and maintain a list of eligible *small businesses* and a list of eligible *emerging businesses* that have indicated a desire to enter into *public works contracts* with the City. The City will use these two lists to award *minor public works contracts*. The *emerging business* list will be known as Document No. OO-19095-2 and the *small business* list will be known as Document No. OO-19095-3. The City Manager may amend these lists from time to time in accordance with the directions set forth in this division and with regulations adopted by the Manager.
- (b) *Small businesses* and *emerging businesses* appearing on these lists will be further sub-divided into separate disciplines and license types based on the state of California’s contractors’ licensing scheme.

- (c) Eligible businesses will be placed on the appropriate sub-lists according to the type of California contractor's license they hold. A contractor may hold more than one type of California contractor's license and a contractor's name may appear on more than one sub-list in accordance with types of licenses held. Within each contractor's license type sub-list, eligible businesses will be placed and maintained on the list in accordance with the date of their completed application submitted in accordance with the application process adopted under Section 22.3605.

(*"Establishment of Minor Public Works Contract Availability Lists" added 9-3-2002 by O-19095 N.S.*)

§22.3606 Eligibility for Minor Public Works Contract Availability Lists

- (a) Except as provided in Section 22.3606(b), to be eligible to be placed on the appropriate availability list, a *small business* or *emerging business* shall:
 - (1) be owned by construction professionals licensed by the California Contractors State Licensing Board; and
 - (2) be owned by construction professionals in good standing with the City of San Diego; and
 - (3) have a City of San Diego Business Tax Certificate authorizing them to do business in this City; and
 - (4) upon request of the City, provide a signed statement of an authorized representative of the business affirming that the business's gross income does not exceed the applicable limits specified in the Small Business and Emerging Business Size Standards in Document No. OO-19095-1 on file in the City Clerk's office. The statement of gross income shall be signed under penalty of perjury under California law; and
 - (5) submit a completed application to the City Manager in accordance with the process established by Section 22.3607.
- (b) In addition to meeting the criteria in Section 22.3606(a), a *small* or *emerging business* may also be owned by construction contractors certified as a Small Business or as a Disabled Veteran Business Enterprise, or certified as both, by the California Department of General Services. However, such certification does not eliminate the necessity for meeting the other eligibility criteria

specified in Section 22.3606.

- (c) The City Manager may determine that certain businesses are ineligible to be placed on the *small* or *emerging business* availability lists, because those businesses hold only those types of California licenses issued to *persons* not primarily engaged in public works construction. This determination shall be in writing and the availability lists shall be amended to reflect this determination.

(“*Eligibility for Minor Public Works Contract Availability Lists*” added 9-3-2002 by O-19095 N.S.)

§22.3607 Application Process for Placement on Availability List

The City Manager shall establish an application process for determining whether a particular business is eligible to be placed on the *small business* or *emerging business* availability lists.

(“*Application Process for Placement on Availability List*” added 9-3-2002 by O-19095 N.S.)

§22.3608 Removal from Availability Lists

- (a) A *small* or *emerging business* may be removed from the applicable *public works contract* availability list if the business submits a non-responsive bid to the City’s solicitation of bid at least four times within the City’s fiscal year.
- (b) *Small businesses* or *emerging businesses* that have been awarded more than \$1,000,000 in City *public works contracts* within a City fiscal year will be removed from the list in that fiscal year and will be eligible for reinstatement to the list in future fiscal years upon establishing that the business meets the gross income limits in Document No. OO-19095-1 on file in the City Clerk’s office.

(“*Removal from Availability Lists*” added 9-3-2002 by O-19095 N.S.)

§22. 3609 Reinstatement Following Removal from List; Re-application Required

If a *small* or *emerging business* has been removed from the applicable *minor public works contracts* availability list for the reasons listed in Section 22.3608, the business may be reinstated to the list only after the business has successfully completed the Manager’s application process for reinstatement.

(“*Reinstatement Following Removal from List; Re-application Required*” added 9-3-2002 by O-19095 N.S.)

§22.3610 Solicitation of Bids for and Award of Minor Public Works Contracts Valued at \$50,000 - \$250,000

- (a) *Minor public works contracts* valued at more than \$50,000 but less than or equal to \$250,000 shall be awarded through a competitive bid process open only to businesses listed on the *small* or *emerging businesses* availability lists.
- (b) The City Manager shall solicit a minimum of five bids for each proposed contract in accordance with procedures in Sections 22.3610(c) and (d).
- (c) Bids shall be solicited first from the appropriate license sub-list on the *emerging business* list established by the City Manager pursuant to Section 22.3605, if at least five are available. Businesses within each license type sub-list on the *emerging business* list will be rotated to determine which businesses will be eligible to participate in a particular bid process.
- (d) If five bid solicitations from qualified contractors are not available from the *emerging business* list, the Manager may solicit bids from the appropriate license sub-list on the *small business* list to make up the deficit. Businesses within each sub-license type on the *small business* list will be rotated to determine which businesses will be eligible to participate in a particular bid process.

(“Solicitation of Bids for and Award of Minor Public Works Contracts Valued at \$50,000 - \$250,000” added 9-3-2002 by O-19095 N.S.)

§22.3611 Solicitation of Bids for and Award of Minor Public Works Contracts Valued at under \$50,000

- (a) *Minor public works contracts valued at \$50,000 or less* shall be awarded through a competitive bid process open only to businesses listed on the *small* or *emerging businesses* availability lists in accordance with procedures set forth in this Section.
- (b) The City Manager shall solicit bids from five businesses from the appropriate license sub-list on the *emerging business* list, if at least five are available. Businesses within each license type sub-list on the *emerging business* list will be rotated to determine which businesses will be eligible to participate in a particular bid process.
- (c) If five bid solicitations from qualified contractors are not available from the *emerging business* list, the Manager may solicit bids from the appropriate license sub-list on the *small business* list to make up the deficit. Businesses

within each license type on the *small business* list will be rotated to determine which businesses will be eligible to participate in a particular bid process.
(“*Solicitation of Bids for and Award of Minor Public Works Contracts Valued at under \$50,000*” added 9-3-2002 by O-19095 N.S.)

§22.3612 Names on Lists to be Rotated to Ensure Fairness

The Manager shall establish a rotation scheme that will ensure that eligible businesses are given a fair opportunity to participate in the City’s contracting process under Sections 22.3610 and 22.3611.
(“*Names on Lists to be Rotated to Ensure Fairness*” added 9-3-2002 by O-19095 N.S.)

§22.3613 Plans and Specifications to be Provided Free of Charge to Small or Emerging Businesses

Plans and specifications for *minor public works contracts* will be provided free of cost to *small and emerging businesses*.
(“*Plans and Specifications to be Provided Free of Charge to Small or Emerging Businesses*” added 9-3-2002 by O-19095 N.S.)

§22.3614 Emergency Contracts

- (a) Based on the City Manager’s written determination that an *emergency* exists requiring immediate action, the Manager may execute a *minor public works contract* valued at \$10,000 to \$50,000 so long as the Manager has received oral or written quotes for the proposed work from at least five *persons* from either the *emerging* or *small business* lists.
- (b) Based on the City Manager’s written determination that an *emergency* exists requiring immediate action, the Manager may execute a *minor public works contract* valued at less than \$10,000 so long as the Manager has received an oral or written quote for the proposed work from at least one *person* from either the *emerging* or *small business* lists.
(“*Emergency Contracts*” added 9-3-2002 by O-19095 N.S.)

§22.3615 Effect of Amendments to Minor Public Works Contracts

As long as the original value of a *minor public works contract* as determined at bid opening is less than or equal to \$250,000, any future amendments increasing the value of that *contract* do not render the bidding, award or administration process invalid.
(“*Effect of Amendments to Minor Public Works Contracts*” added 9-3-2002 by O-19095 N.S.)

§22.3616 City Manager to Adopt Regulations

The City Manager shall adopt regulations to implement this Division.
(“*City Manager to Adopt Regulations*” added 9-3-2002 by O-19095 N.S.)